

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Kathy MAIDA-SMITH et al.	§	Confirmation No.:	7785
		§		
Serial No.:	10/804,775	§	Group Art Unit:	2165
		§		
Filed:	March 19, 2004	§	Examiner:	D. D. Mizrahi
		§		
For:	Network Security Data	§	Docket No.:	2416-00300
	Management System	§		
	And Method	§		

**PETITION UNDER 37 CFR § 1.78(a)(3)  
FOR UNINTENTIONALLY DELAYED  
PRIORITY CLAIM UNDER 35 USC § 120**

Mail Stop Petition  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Date: May 5, 2008

Sir:

The subject, above-referenced application was filed on March 19, 2004 as a continuation-in-part of abandoned U.S. Patent Application Serial No. 09/444,937 (hereinafter the “‘937 Application”). The subject application as filed included the required specific reference to the ‘937 Application, and thus the priority claim to the ‘937 Application was timely presented. A contemporaneously filed petition to revive the ‘937 Application, however, was later dismissed.<sup>1</sup>

Applicants subsequently filed a petition to revive abandoned U.S. Patent Application Serial No. 09/990,194 (hereinafter the “‘194 Application”), which is a continuation of the ‘937 application. The petition was granted, and the ‘194 Application was revived for purposes of continuity, at which time copendency of the ‘194 Application and the subject application was established. The ‘194

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<sup>1</sup> Additional details of the unusual facts in this matter are described in Applicants’ “Statement Regarding Priority Claim,” previously filed in this matter on July 29, 2005, a copy of which is attached to this petition for reference.

Application was then immediately declared again abandoned. Five days after the petition was granted, Applicants filed an amendment to the specification of the subject Application, adding the specific reference to the '194 Application required in order to claim priority to the '194 Application.

Applicants respectfully submit that the entire delay between the date that the priority claim to the '194 Application was due under 37 CFR § 1.78(a)(2)(ii) and the date the priority claim was filed was unintentional. Applicants did not intentionally choose to delay filing the priority claim, but were simply unable to claim priority to the '194 Application until continuity and copendency could be established by the revival of the '194 Application. The record shows that once Applicants received notification that the petition to revive the '194 Application had been granted, Applicants diligently amended the subject Application to include the priority claim.

With the revival of the '194 Application, copendency was established between the subject Application and the '194 Application. With the subsequent amendment to the specification of the subject Application, adding the required specific reference to the '194 Application, Applicants respectfully submit that the subject Application is entitled to claim the benefit of the November 22, 1999 filing date of the '937 Application, to which the '194 Application claims priority.

Applicants thus respectfully submit that with (a) the prior amendment to the specification of the subject Application to include the priority claim to the '194 Application, (b) the statement in this paper that the entire delay in presenting the claim was unintentional, and (c) the submission with this paper of the surcharge required under 37 CFR § 1.17(t), all of the requirements for presenting a late priority claim under 37 CFR § 1.78(a)(3) have been met. Applicants therefore respectfully request that this petition to accept the present late priority claim to the '194 Application, thus recognizing an effective filing date of November 22, 1999, be granted.

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary

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**Petition dated May 5, 2008**

to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR. § 1.136(a), and any fees required are hereby authorized to be charged to Conley Rose, P.C.'s Deposit Account No. 03-2769/2416-00300.

Respectfully submitted,

/Jonathan M. Harris/

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ATTORNEY FOR APPLICANTS

**Appl. No. 10/804,775**  
**Petition dated May 5, 2008**

COPY OF STATEMENT REGARDING PRIORITY CLAIM  
(PREVIOUSLY FILED ON JULY 29, 2005)

Appl. No. 10/804,775  
Petition dated May 5, 2008

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CONLEY, ROSE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kathy MAIDA-SMITH, et al.	§	Confirmation No.:
		§	
Serial No.:	10/804,775	§	Group Art Unit: 2131
		§	
Filed:	March 19, 2004	§	Examiner:
		§	
For:	Network Security Data	§	Atty. Docket No.: 2416-00300
	Management System And	§	
	Method	§	

**STATEMENT REGARDING PRIORITY CLAIM**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Attorney Docket No. 2416-00300  
Date: July 27, 2005

Sir:

The above-identified patent application was filed on March 19, 2004 as a continuation-in-part of abandoned U.S. Patent Application 09/444,937, filed November 22, 1999. The above-identified patent application also included a priority claim to the '937 patent application in the specification. A petition to revive 09/444,937 was submitted on the same date. This petition to revive was dismissed on June 23, 2004.

Subsequently, a petition to revive abandoned U.S. Patent Application 09/990,194 was submitted on October 29, 2004. This application was filed on November 21, 2001 as a continuation of the '937 patent application and subsequently went abandoned on November 18, 2003 for failure to timely respond to a Notice to File Missing Parts. In the petition to revive this application, the response to the office action was declared to be the filing of the above-identified patent application. The petition to revive was granted on May 20, 2005. The decision letter contained the following statement:

In view of the statement that the reply is the filing of a continuing application, the ... application is being revived solely for the purposes of continuity. As continuity has been established by this decision reviving the ... application, the ... application is again abandoned.

On May 25, 2005, a preliminary amendment to add a priority claim was submitted for the above-identified application. This preliminary amendment adds a priority claim to the '194 patent application to the text of the specification. Because of the unusual facts in this matter and because

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**Petition dated May 5, 2008**


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this latter priority claim is made after the time period specified in 37 CFR 1.78(a)(2), Applicants called Retta Williams, the Petitions Examiner who granted the petition to revive the '194 patent application, on July 27, 2005 to verify that continuity, and hence the right to a priority date of November 22, 1999, for the above-identified patent application was indeed established by the decision letter. Ms. Williams stated that the decision letter established continuity for the continuation-in-part application named in the petition to revive, namely the above-identified patent application. Applicants therefore submit that with the filing of the preliminary amendment to correct the priority claim of the above-identified application, all necessary steps have been taken to establish that the above-identified application is entitled to claim the benefit of the November 22, 1999 filing date.

Respectfully submitted,



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